

**BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

ISAAC DORJE FISHMAN,

Respondent.

Case No. : 2002014000809

OAH No. : 2014110600

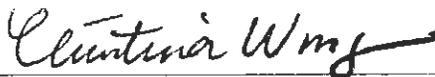
DECISION

Pursuant to Government Code section 11517 (c)(2)(C), the attached Proposed Decision is hereby Adopted by the Board of Behavioral Sciences as the final Decision in the above-entitled matter with the following technical changes:

- On page 2, paragraph 8, the word “bring” in the 5th line is corrected to read “brings” ;
- On page 4, paragraph 5, Business and Professions code section 4908.02 is changed to 4980.02;
- Beginning on page 5, the word “license” is changed to “license/registration” every time it appears; and
- On page 6, paragraph 15, a sentence is added to read “Reimbursement cost shall be \$1,200 per year.”

This Decision shall be effective on May 15, 2015.

It is so ORDERED April 15, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

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PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on February 17, 2015.

Char Sachson, Deputy Attorney General, represented complainant.

Respondent was present and represented himself.

The matter was submitted on February 17, 2015.

FACTUAL FINDINGS

1. Kim Madsen made the statement of issues in her official capacity as the Executive Officer of the Board of Behavioral Sciences (Board), Department of Consumer Affairs.

2. On February 20, 2014, the Board received an application for a Marriage and Family Therapist Intern Registration from Isaac Dorje Fishman (respondent). On February 7, 2014, respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on July 30, 2014. Respondent appealed the denial.

3. Respondent's Marriage and Family Therapist Intern Registration was previously revoked effective September 18, 2010.

The revocation was based on convictions of substantially related crimes including a conviction in 2009 for a violation of Health and Safety Code section 11359 (possession for

sale of marijuana), a felony; for a misdemeanor conviction in 2009 of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of 0.08 percent or higher), a misdemeanor; for a misdemeanor conviction in 1999, in Nevada, of battery; for a misdemeanor conviction in 2000, of a violation of Vehicle Code sections 23103 and 23103.5 (wet reckless); and for a misdemeanor violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of 0.08 percent or higher).

4. Respondent admits that he has a problem with substance abuse. He has taken his recovery very seriously and has been clean and sober for six years.

5. In 2008, respondent completed a 30-day in-patient program at Singing Trees Recovery Center. He has participated in AA since that time. He participated in 90 meetings in 90 days and has a sponsor. His sponsor testified by telephone at the hearing and wrote a letter for respondent. His sponsor found respondent in rough shape when they met in December 2008. Respondent has changed his life and now helps others. There are two additional letters from others attesting to respondent's efforts in his recovery including a person that respondent sponsors and an additional friend in recovery.

6. Respondent is employed by Fort Bragg Unified School District under Nancy L. Matthewson, LMFT to provide counseling services to students with special needs. Ms. Matthewson testified at the hearing by telephone and wrote a letter on respondent's behalf. She has known respondent since 2002, when he was a substitute teacher in a special day class. She finds that respondent's recovery process has enhanced his abilities to work with clients. The staff and students are thrilled to have him back.

7. Respondent submitted additional letters from colleagues, including the principal of Dana Gray Elementary School where respondent is working this school year. She finds him a team player. She appreciates his compassion, diligence and genuine personality. He also presented letters from the Director of Special Programs for the Fort Bragg Unified School District; a school psychologist for the elementary school; an instructor at the College of the Redwoods and behavior specialist for at risk youth for Mendocino County Youth Project; and a teacher at the elementary school who teaches 3rd through 5th grade special day classes. They all think very highly of respondent and his abilities. They all attest to his commitment to his recovery.

8. Respondent presented a number of other character letters. One from a past employer; one from the Superintendent of the Mendocino Unified School District; one from the athletic director at Mendocino High School; one from a friend and trusted colleague; and one from SOS Community Counseling. The message is the same. Respondent has turned his life around. Respondent bring humor and humility to his work. He is committed to a lifestyle that supports his recovery and protects his family.

9. Respondent has demonstrated that he is safe to be registered as a Marriage and Family Therapist Intern. There is nothing additional that the Board can require respondent to do, except to continue in the path he has set for himself.

10. Complainant, through the Deputy Attorney General, has recommended three years' probation on terms and conditions that include abstinence.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 3, cause for denial exists pursuant to Business and Professions Code section 4982.25, subdivision (a) (prior disciplinary action).

2. The matters in extenuation, mitigation, and rehabilitation set forth in Findings 4 through 10 have been considered in making the following order.

ORDER

The application of Isaac Dorje Fishman for a Marriage and Family Therapist Intern Registration shall be issued. However, the registration shall be revoked. The revocation will be stayed and respondent placed on three years' probation with the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

1. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

2. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

3. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the program.

4. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

5. Failure to Practice

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4908.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

6. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

7. Supervision of Unlicensed Persons

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

8. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to

supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

9. Notification to Employer

Respondent shall provide each of his current or future employers, when performing services that fall within the scope of practice of his license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

10. Violation of Probation

If respondent violates the conditions of his probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's registration provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's registration, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's registration shall be fully restored.

11. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

12. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed

appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

13. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

14. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

15. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.

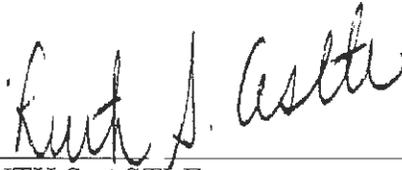
16. Abstain from Controlled Substances/Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to respondent's current employer and shall be a violation of probation.

17. Abstain from Use of Alcohol/Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to respondent's current employer and shall be a violation of probation.

DATED: March 5, 2015



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

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BOARD OF BEHAVIORAL SCIENCES
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. 2002014000809

12 **ISAAC DORJE FISHMAN**

STATEMENT OF ISSUES

13 **Marriage and Family Therapist Intern**
14 **Registration Applicant**

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Kim Madsen (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer
21 Affairs.

22 2. On or about February 20, 2014, the Board of Behavioral Sciences, Department of
23 Consumer Affairs, received an application for a Marriage and Family Therapist Intern
24 Registration from Isaac Dorje Fishman (Respondent). On or about February 7, 2014, Isaac Dorje
25 Fishman certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on July 30, 2014.

27 JURISDICTION

28 3. This Statement of Issues is brought before the Board of Behavioral Sciences (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 4982.25 states:

4 "The board may deny any application, or may suspend or revoke any license or registration
5 issued under this chapter, for any of the following:

6 "(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
7 imposed by another state or territory or possession of the United States, or by any other
8 governmental agency, on a license, certificate, or registration to practice marriage and family
9 therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the
10 disciplinary action decision or judgment shall be conclusive evidence of that action.

11 . . ."

12 CAUSE FOR DENIAL OF APPLICATION

13 (Previous Registration Discipline)

14 5. Respondent's application is subject to denial under section 4982.25(a) in that his
15 Marriage and Family Therapist Intern Registration No. IMF 54702 was revoked, effective
16 September 18, 2010, in Case No. IM-2009-577.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Behavioral Sciences issue a decision:

- 20 1. Denying the application of Isaac Dorje Fishman for a Marriage and Family Therapist
21 Intern Registration;
22 2. Taking such other and further action as deemed necessary and proper.

23 DATED: November 5, 2014



24 KIM MADSEN
25 Executive Officer
26 Board of Behavioral Sciences
27 Department of Consumer Affairs
28 State of California
Complainant

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